

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 42.01(1)(C) Striped Bass Circle Hook Exemption

ADOPTED RULE NUMBER:

CONCISE SUMMARY: This rulemaking adoption regarding striped bass will allow anglers to fish for these species with a traditional rubber/latex tube rig lure that has bait attached to the tail end. This lure will not fish properly with a circle hook as is currently required beginning January 1, 2013 under Chapter 42.01(1)(C). These rubber/latex tube rigs have a very low incidence of gut-hooking fish thus a low incidence of hook mortality. This type of rig is fished primarily along the southern part of the Maine coast.

EFFECTIVE DATE: April 16, 2013

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DEPARTMENT OF MARINE RESOURCES

Chapter 42 - Striped Bass

42.01 Statewide Striped Bass Size Restrictions, Harvest Methods

1. Method of Taking.

- A. It is unlawful to fish for or take striped bass in territorial waters, except by hook and line. It is unlawful to use a gaff to land any striped bass.
- B. It is unlawful to use multiple (more than two) barbed or barbless treble hooks on any artificial lure or flies while fishing for striped bass in territorial waters.
- C. It is unlawful to use treble hooks when using bait.
The following becomes effective January 1, 2013:
It is unlawful to use any hook other than a circle hook when using bait. For purposes of this chapter the definition of circle hook means "a non-offset hook with a point that points 90° back toward the shaft of the hook.

Exception: Rubber or latex tube rigs will be exempt from the circle hook restriction as long as they conform with the following: the lure must consist of a minimum of 8" of latex or rubber tubing with a single hook protruding from the end portion of the tubing where bait may be attached. Use of treble hooks is not allowed with these rigs.

- D. Any striped bass legally taken from the territorial waters shall be immediately released alive into the water from which it was taken, or killed at once. Any striped bass killed becomes part of the daily bag limit in accordance with Chapter 42.02.

2. Size Restrictions.

It is unlawful to take or possess striped bass which are less than 20 inches long or greater than 26 inches total length but less than 40 inches total length. It is unlawful to possess striped bass unless the fish are whole with head on and are between 20 and 26 inches total length or 40 inches and greater total length.

Basis Statement

Chapter 42.01(1)(C) Striped Bass Circle Hook Exemption

Notice of this proposed rulemaking was given on February 13, 2013 on the following: the DMR website, the DMR rulemaking interested parties e-mail list, the DMR Advisory Council via e-mail, the Secretary of State's proposed rulemaking website and the five major daily newspapers. A public hearing on this proposed rule was held on March 5, 2013 in West Boothbay Harbor.

This rulemaking would allow anglers to fish for striped bass with a popular, traditional rubber/latex tube rig lure that has bait attached to the tail end. This lure will not fish properly with a circle hook as is currently required beginning January 1, 2013 under Chapter 42.01(1)(C). These rubber/latex tube rigs have a very low incidence of gut hooking fish thus a low incidence of hook mortality. The DMR has not received any information from recreational fishermen of gut hooking incidents with this type of rig. This type of rig is fished primarily along the southern part of the Maine coast.

The Department is required to work within the framework provided by the Atlantic States Marine Fisheries Commission (ASMFC) Management Plan that limits options when considering state management plan changes and has explored rule changes that could protect striped bass. During the month of February 2010, the Maine Department of Marine Resources held two striped bass scoping meetings to discuss recreational angler concerns of declining striped bass catches in Maine and most states along the East Coast. There was a considerable amount of discussion in the scoping sessions concerning the catch and release mortality of striped bass in Maine. Many attributed this mortality to fishing for striped bass with bait and the use of J-hooks while bait fishing. Fishing for striped bass with bait is an efficient means of catching striped bass during the spring, summer, and fall and a popular method of catching all sizes of striped bass. Based on this feedback, the requirement of circle hooks with bait beginning January 1, 2013 via DMR rulemaking in December 2010 was implemented.

This rulemaking exemption to the circle hook requirement will allow anglers and the for-hire industry to continue to use a traditional rubber/latex tube rig lure that will not work with now-required circle hooks. As stated above, these rubber/latex tube rigs have a very low incidence of gut-hooking fish and thus a low incidence of hook mortality.

As authorized by 12 M.R.S. §6171, the Commissioner of the Department of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts this amended regulation.

In accordance with 5 M.R.S. §8052, sub §5-A, a statement of the impact on small business has been prepared. Information is available upon request from the DMR Commissioner's office, State House Station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

Summary of Comments

Notice of this proposed rulemaking was given on February 13, 2013 via the following: the DMR website, the DMR rulemaking interested parties e-mail list, the DMR Advisory Council via e-mail, the Secretary of State's proposed rulemaking website, and the five major daily newspapers. A public hearing was advertised and held at the Maine Department of Marine Resources Laboratory's Large Conference Room in West Boothbay Harbor on March 5, 2013. The summarized comments received either at the public hearings, via e-mail or by letter are sorted by topics with Department responses.

Comments in Favor of the Proposed Rule:

Brian Beckman, Phippsburg. Comment received via e-mail:

"I am writing you to strongly include the subject exemption in the rule making for the use of circle hooks. As you know, I've been recreationally logging for you for close to 15 years and the majority of striped bass I've logged in the last 8 years have been the result of the use of a tube and worm. Of those catches (easily close to a 1000 or better), only 1 fish was not caught as a jaw hook-up. As a Maine Guide depending upon some fishing success for my business, not having the ability to use the standard T&W set up would greatly affect my client's success rate for catching that specie. As it is, I've had to turn down serious fishing clients because of the declining population of stripers and to take the T&W fishing technique away from me would further lessen my chances to provide a good fishing experience for the visitors of Maine. Thus, both conservation and economic considerations factor into my plea for this exemption.....Please include this exemption in your rule making."

Paul Joyce, Maine Guide. Comment received during public hearing:

"Speaking from past experience as an enforcement officer, I'm for the exemption as long as they conform to the regulations as they are written. I've never seen it as a problem in the years that I have put on the water nor as a fisherman."

Jim Williams, West Bath. Maine Guide. Comment received during public hearing:

"I've used the tube and hook lure a lot. I have never gut-hooked a striper with that lure. I never have attempted to used circle hooks on that. My suspicion is that it would be fairly ineffective but I don't have any experience with it. The reason that I do like that tube and lure using bait is that if you do hook the fish on the lip, you don't gut hook the fish. So you there is very minimal damage to the fish and it is very easy to release with a bowler grip and just toss the fish back in the water. So I would be very much in favor of continuing to use that tube and lure without a circle hook."

Department response: The DMR concurs with your testimony and the adopted rule reflects this.

Comments in Opposition to the Proposed Rule:

None received.

Comments Neither For Nor Against the Proposed Rule:

None received.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 42.01(1)(C) Striped Bass Circle Hook Exemption

STATUTORY AUTHORITY: 12 M.R.S. §6171

DATE AND PLACE OF PUBLIC HEARING: Tuesday March 5, 2013 4 p.m. Large Conference Room Maine Department of Marine Resources. 194 McKown Point Road. West Boothbay Harbor

COMMENT DEADLINE: March 15, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

This rulemaking regarding striped bass would allow anglers to fish for striped bass with a traditional rubber/latex tube rig lure that has bait attached to the tail end. This lure will not fish properly with a circle hook as is currently required beginning January 1, 2013 under Chapter 42.01(1)(C). These rubber/latex tube rigs have a very low incidence of gut hooking fish thus a low incidence of hook mortality. This type of rig is fished primarily along the southern part of the Maine coast.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The Department is required to work within the framework provided by the ASMFC Management Plan that limits options when considering state management plan changes and has explored rule changes that could protect striped bass. During the month of February 2010, the Maine Department of Marine Resources held two striped bass scoping meetings to discuss recreational angler concerns of declining striped bass catches in Maine and most states along the East Coast. There was a considerable amount of discussion in the scoping sessions concerning the catch and release mortality of striped bass in Maine. Many attributed this mortality to fishing for striped bass with bait and the use of J-hooks while bait fishing. Fishing for striped bass with bait is an efficient means of catching striped bass during the spring, summer, and fall and a popular method of catching all sizes of striped bass. Based on this feedback, the requirement of circle hooks with bait beginning January 1, 2013 via DMR rulemaking in December 2010 was implemented.

This rulemaking exemption to the circle hook requirement will allow anglers and the for-hire industry to continue to use a traditional rubber/latex tube rig lure that will not work with now-required circle hooks. As stated above, these rubber/latex tube rigs have a very low incidence of gut-hooking fish and thus a low incidence of hook mortality. This type of rig is fished primarily along the southern part of the Maine coast.

FISCAL IMPACT OF THE RULE:

Enforcement of these proposed amendments would not require much additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.